

## **MINUTES**

### **INDIANA BOARD OF VETERINARY MEDICAL EXAMINERS**

**NOVEMBER 28, 2007**

#### **I. CALL TO ORDER AND ESTABLISHMENT OF QUORUM**

Dr. Welp called the meeting to order at 9:00 a.m. in the Professional Licensing Agency Conference Room, W064, Indiana Government Center South, 402 West Washington Street, Indianapolis, Indiana, and declared a quorum in accordance with Indiana Code § 15-5-1.1-6(c).

##### **Board Members Present:**

Ralph Welp, D.V.M. – Chairman  
Dawn Frank, D.V.M. – Vice Chairman  
Richard Headley, D.V.M.  
Robin Waltz, D.V.M.  
Patricia Kovach, D.V.M.  
Brett Marsh, D.V.M., State Veterinarian

##### **Board Members Absent:**

Frank Andrew, Consumer Member

##### **State Officials Present:**

Cindy Vaught, Board Director, Professional Licensing Agency  
Kristine Yarde, Assistant Board Director, Professional Licensing Agency  
Ken Curry, Case Manager, Professional Licensing Agency  
Becky Walker, Deputy Attorney General, Office of the Attorney General

#### **II. ADOPTION OF THE AGENDA**

A motion was made and seconded to adopt the agenda, as amended.

FRANK/KOVACH  
Motion carried 5-0-0

#### **III. ADOPTION OF THE MINUTES FROM THE SEPTEMBER 26, 2007 MEETING OF THE BOARD**

A motion was made and seconded to adopt the minutes from the September 26, 2007 meeting of the Board.

FRANK/KOVACH  
Motion carried 5-0-0

#### **IV. INSPECT PROGRAM**

##### **A. INSPECT Presentation**

A presentation about the INSPECT prescription monitoring program was made to the Board by Josh Klatte, Assistant Director of INSPECT. He explained the

registration process, various uses of the system, and future plans for what it will do.

**V. APPEARANCES**

**A. RENEWAL**

**1. Chad Kaluza, D.V.M., License No. 24006069A**

Dr. Kaluza appeared before the Board, as requested, regarding the renewal of his veterinary license. He was accompanied by Counsel, Sherry Fabina-Abney. On October 9<sup>th</sup>, 2007, Dr. Kaluza self reported to the Board Director, Cindy Vaught, that he had recently been arrested but had not yet been convicted of a crime. He explained to the board that on September 30, 2007 he went to the mall and while walking back to his car with a new pair of shoes he was confronted with a gun and has no memory of what occurred after that. He was found in a greenhouse business located across from the mall unconscious in a pool of blood and broken glass and his personal items had been stolen. He was transported by paramedics to a hospital and then arrested by the police for the charges of burglary and criminal trespass. He stated it was not the owner of the business who pressed charges but rather the police. Dr. Kaluza was unable to answer the Board's questions as to why the police would press charges if he was a victim of a crime. He stated he has a criminal attorney other than Ms. Fabina-Abney who has not informed him of much at this point but a trial date has been set for April 2008. Dr. Kaluza owns a Banfield franchise. The Banfield Corporation requested he take a ninety (90) day leave while the matter is being sorted out and further requested he be evaluated by a psychiatrist and examined as to whether there were drug problems. Dr. Kaluza explained he was evaluated by Dr. Sharon Freeman who has diagnosed him as bi-polar and he is currently taking Depacote which he said is helping. The Board asked why Banfield would suspect he was on drugs and he stated that for four (4) years he was working one hundred (100) hour per week with very little sleep. Now that he has had a bi-polar diagnosis this was due to the fact he was in a manic state and when things began falling apart with his personal life recently his body has crashed into a depressive state. He denies having a drug or alcohol abuse problem and stated he has never been in trouble with the law. He told the Board now that Banfield would like for him to return to work and he wants to get back to his practice as it is struggling without him.

**Board Action:** A motion was made and seconded that the licensure status be placed on "Valid to practice while reviewed" based upon information the Board has received. This matter was referred to the Office of the Attorney General for investigation.

Action as to whether to renew or deny Dr. Kaluza's veterinary license is pending until the outcome of the Attorney General's investigation. Dr. Kaluza may practice during this time period.

KOVACH/HEADLEY  
Motion carried 5-0-0

**2. Karin Kooreman, D.V.M., License No. 24005129A**

Dr. Kooreman appeared before the Board, as requested, regarding her veterinary license renewal. On her application she answered "yes" to the question asking, "Since you last renewed, have you been convicted of or pled guilty to a violation

of a federal or state law or are criminal charges pending?" Dr. Kooreman explained she has been an alcoholic for thirty-one (31) years and on March 23, 2006 and again on September 3, 2006 she was arrested for Operating a Vehicle While Intoxicated and after the second arrest she was charged with a felony. After the first arrest she entered intensive outpatient therapy but following her second arrest she entered treatment at Rush Behavioral Health Center and says September 20, 2006 is her sobriety date. She currently attends six (6) AA meetings a week, sees a counselor weekly, and still goes to Rush for their caduceus program every other week. She completed 180 days of home detention during which time she was allowed to practice with a court ordered ignition lock she must blow into in order to start her vehicle. She has a probation officer who she meets with on a regular basis for her court ordered probation and she submits to random urine drug testing. The Board asked what happened in 2006 that caused her to get into trouble if she has been an alcoholic for thirty-one (31) years and she replied that she lost a best friend in 2005 and went through a very difficult time. She explained it was not the two arrests that caused her to go into treatment and recover but that she made a decision to live and not die of alcoholism like other members of her family had. She told the board there is a difference between a functioning and non-functioning alcoholic and she has obtained her D.V.M. and Ph D and had a successful and meaningful career throughout all of this without any complaints against her. She stated she is committed to her lifelong recovery and has a system in place to help ensure her success.

**Board Action:** A motion was made and seconded to renew Dr. Koorman's license on probation with terms and conditions.

KOVACH/WALTZ

Motion failed 2-3-0

Dr. Headley, Dr. Frank, and Dr. Welp dissented

**Board Action:** A motion was made and seconded to renew Dr. Kooreman's license without restrictions.

HEADLEY/FRANK

Motion carried 4-1-0

Dr. Waltz dissented

**3. Russell L. Schnepfer, D.V.M., License No. 24006551A**

Dr. Schnepfer did not appear before the Board, as requested, regarding his application for renewal of his license. He had previously contacted the Board Director and asked to withdraw his renewal application.

**4. Paul Robert Witke, D.V.M., License No. 24005212A**

Dr. Witke appeared before the Board, as requested, regarding his application for renewal of his license. He was accompanied by Counsel, Jennifer Lukemeyer. On his renewal application he answered "yes" to question 3 asking, "Since you last renewed, have you been convicted of or pled guilty to a violation of a federal or state law or are criminal charges pending?" Dr. Witke explained that he was cited on August 22, 2007 for having a handgun in his carry-on bag at the airport. Dr. Witke stated he has a permit to carry a concealed weapon and does so for the purpose of personal protection. Dr. Witke stated he knew he could not have a gun at the airport but he packed late at night for an early flight and forgot the gun was in his bag. It had been in there from a previous road trip he took to Detroit.

He appeared in court on November 9, 2007 and is charged with an A misdemeanor for entering a controlled area at an airport with a weapon. The matter has not been resolved yet but federal charges are not being sought and he told the Board he was allowed to continue on to his destination that day on another flight.

**Board Action:** A motion was made and seconded to renew Dr. Witke's veterinary license.

FRANK/KOVACH  
Motion carried 4-0-0  
Dr. Waltz recused herself.

**B. PROBATIONARY**

**1. State of Indiana v. James Brester, D.V.M., License No. 24003011A**  
Administrative Cause No. 2005 VB 0010

Dr. Brester appeared before the Board, as requested, for a personal appearance regarding a term of his August 15, 2005 Order. The Order stated that "Respondent agrees to complete ten (10) hours of continuing education above and beyond what is already required by statute in the areas of 1) record keeping and 2) proper labeling of prescriptions." In October 2005 he wrote to the Board and said he was having difficulty finding continuing education in those areas and did the Board have any suggestions. The Board responded in a letter dated January 6, 2006 recommending an alternative. He could contact a veterinary facility which is certified by the American Animal Hospital Association (AAHA) to observe their practice. He was told to spend ten (10) hours at the facility with correspondence submitted to the Board directly from the veterinarian of the facility indicating the date(s), time(s), and what was observed. It was noted he should specifically have them demonstrate their record keeping and labeling procedures. The Board asked Dr. Brester to appear because as of this date no proof has been received that he has fulfilled this requirement. Dr. Brester stated that his daughter has been looking for continuing education and has not found any until recently. He presented an online program to the Board which was designed for veterinary technicians. The Board explained that program is not acceptable because he is a veterinarian and is held to a higher standard. Ms. Vaught stated she went online and in short time found three (3) online programs which she presented to the Board. Dr. Brester stated he was frustrated with trying to find a continuing education program and requested assistance from the Board. The Board reiterated that he can go observe at an AAHA facility to which he replied that he did not get along well with the people that were submitted to him on a list. Ms. Vaught asked him who gave him a list because it was not from the Board. He could not recall where he got the list. The Board made it clear that it is his responsibility to see that he meets this requirement.

**Board Action:** A motion was made and seconded to schedule Dr. Brester for a personal appearance for the March 26, 2008 meeting and require that he bring proof of completion of continuing education for the period of 10/15/2005 through 10/15/2007 and provide proof of completion of ten (10) hours of record keeping and prescription labeling as required by the terms and conditions of the Order issued on August 15, 2005.

WALTZ/KOVACH  
Motion carried 5-0-0

**2. State of Indiana v. Todd Cooney, D.V.M., License No. 24004650A**  
Administrative Cause No. 2005 VB 0007

Dr. Cooney appeared before the Board, as requested, for a personal appearance regarding his ongoing probationary status. He reported that things are going well and he is still practicing solo doing mostly small animal and some dairy cattle and equine. He told the Board he got his CSR back and his DEA registration is still pending. Dr. Cooney's November drug screen was negative and he has been attending his AA meetings. He was advised that the Board has not yet received a report from Dr. Mohr for October and he needs an addictionology report.

**C. APPLICATIONS**

**1. Bradley Wayne Hill, D.V.M.**

Dr. Hill failed to appear before the Board, as requested, regarding his application for a veterinary license. He was asked to appear due to a positive response on his application to question 5b asking, "Have you ever been convicted of, pled guilty, or nolo contendere to any offense, misdemeanor or felony in any state?" Dr. Hill's personal appearance has already been rescheduled once and he failed to contact the Board to explain that he would be unable to attend this meeting.

**Board Action:** A motion was made and seconded to deny Dr. Hill's veterinary licensure application.

HEADLEY/FRANK  
Motion carried 5-0-0

**VI. ADMINISTRATIVE HEARINGS**

There were no administrative hearings scheduled.

**VII. SETTLEMENT AGREEMENTS**

There were no settlement agreements.

**VIII. NOTICE OF PROPOSED DEFAULT**

There were no Notice of Proposed Default's before the Board.

**IX. DISCUSSION**

**A. Rachel B. Clark, D.V.M., License No. 24003461A**  
Administrative Cause No. 96 VB 0007  
Re: Request for Reinstatement of Licensure

The Board reviewed letters that were sent by Dr. Clark requesting a hearing to reinstate her suspended veterinary license.

**Board Action:** A motion was made and seconded to set an administrative hearing for the January 2008 meeting.

FRANK/KOVACH  
Motion carried 5-0-0

- B. Janice L. Buback, D.V.M., MS, Diplomate ACVS**  
Continuing Education Coordinator  
Indianapolis Veterinary Specialists, P.C.  
Re: Designation as an "Approved Organization" for Continuing Education

The Board discussed a letter from Dr. Buback requesting that Indiana Veterinary Specialists and Emergency Center be designated by the Board as an "automatically approved" sponsor under IC 25-1-4-0.2. The Board has granted approval of every program that they have applied for in the thus far and the consensus was that they put on good programs.

**Board Action:** A motion was made and seconded to approve Indianapolis Veterinary Specialists as an automatically approved sponsor. The Board reserves the right to rescind this approval should program quality come into question.

FRANK/KOVACH  
Motion carried 5-0-0

- C. State of Indiana, ex rel the Indiana Board of Veterinary Medical Examiners v. Pamela Ann Buss, D.C.**  
Re: Court's Findings of Fact, Conclusion of Law and Order

Mike Minglin, Deputy Attorney General for the State of Indiana, presented the Board with the Findings of Fact, Conclusions of Law and Order ruled by the Pike County Court in the case of Indiana Board of Veterinary Medical Examiners v. Pamela Ann Buss, D.C. The Board asked the Attorney General's Office to file an injunction against Dr. Buss for practicing veterinary medicine without a license by performing chiropractic on animals without being under the direct supervision of a veterinarian. Mr. Minglin explained this case began when on September 2, 2004 the Chiropractic Board censured Dr. Buss for practicing chiropractic on animals. Dr. Buss appealed this decision to the Dubois Circuit Court. On December 16, 2005 the Dubois Circuit Court reversed the Indiana Chiropractic Board's finding that a chiropractor could perform chiropractic on animals. The Dubois Circuit Court made no findings with regard to the applicability of the Indiana Veterinary Practice Act. The Chiropractic Board did not appeal the decision of the trial court to the Indiana Court of Appeals. Mr. Minglin established that that Dr. Buss was practicing veterinary medicine as it is defined in IC § 15-5-1.1-2 because she was diagnosing a specific disease or injury, prescribing an application, or treatment of whatever nature for the prevention, cure, or relief of bodily injury, administering an application or treatment of whatever nature for the prevention, cure, or relief of a wound, fracture, or bodily injury, and accepted remuneration for doing these things. Dr. Buss practiced alone and was not under the direct supervision of a veterinarian. Mr. Minglin explained that Dr. Buss argued that IC § 15-5-1.1-2 is unconstitutionally vague and overbroad, and thus is void. Mr. Minglin argued the definition of the practice of veterinary medicine is not overbroad because the definition includes the application of treatments and procedures that may result in harm to an animal if not properly performed. The provision of chiropractic treatment to animals is included among the procedures which require veterinary licensure. Mr. Minglin used several case law examples to establish his points

and he was successful in enjoining Dr. Buss from practicing chiropractic on animals without being under the direct supervision of a veterinarian. Mr. Minglin argued that if the Veterinary Practice Act wanted chiropractors to practice on animals then they would have included them in the list of those who are excluded from needing a veterinary license in the Veterinary Practice Act. If the legislature had intended to authorize the practice of chiropractic on animals it would have said so in both of the respective practice acts. The Pike County Court's Findings of Fact and Conclusion of Law and Order concluded that the Dr. Buss's chiropractic activities constitute the unlicensed practice of veterinary medicine. The Board expressed its gratitude to Mr. Minglin for his efforts and congratulated his success.

**D. Appointment of Board Liaison/Administrative Law Judge**

**Board Action:** A motion was made and seconded to appoint Dr. Waltz as the designee for consumer complaints.

FRANK/HEADLEY  
Motion carried 5-0-0

**X. APPLICATION REVIEW**

**A. Endorsement**

**1. Neal Llamzon Villanueva, D.V.M.**

Dr. Villanueva is a 1991 graduate of Michigan State University and has taken and passed National Boards NBE and CCT in 1990. Dr. Villanueva holds a current license in the state of Michigan. On his application he answered "yes" to question 2 asking, "Has disciplinary action ever been taken regarding any health license, certificate, registration, or permit that you hold or have held?" In a written statement he explained that in 2004 Michigan suspended his license for non-payment of child support. He proved that it was a computer error and he was up to date with the child support. Michigan rescinded the suspension.

**Board Action:** A motion was made and seconded to grant Dr. Villanueva a veterinary license upon taking and passing the law examination.

FRANK/KOVACH  
Motion carried 4-0-0  
Dr. Waltz was not present

**B. Examination**

There were no examination applications for the Board to review.

**C. North American Veterinary Licensing Examination (NAVLE)**

There were no NAVLE applications for the Board to review

**D. Professional Corporation**

There were no professional corporation applications for the Board to review

**XI. PROBATIONARY REPORT**

There were no probationary reports.

**XII. CONTINUING EDUCATION**

**A. Boehringer Ingelheim Vetmedica**

1. Advances in Canine Cardiology  
October 17, 2007 Ft. Wayne, IN  
October 18, 2007 Hagerstown, IN

**Hours Granted: 1**

**B. Cincinnati Animal Referral and Emergency Center**

1. Treatment of the Shock Patient and the Post-Emergent Patient  
October 15, 2007  
Cincinnati, Ohio

**Hours Granted: 2**

**C. Novartis Animal Health**

1. Novartis/VetPharm Symposium for Dairy Veterinarians  
November 1, 2007  
Carmel, Indiana

**Hours Granted: 4**

**D. Nutrena**

1. Recent Advancements in Equine Nutrition  
February 4, 2008  
Champaign, Illinois

**Hours Granted: 2**

**E. Safe Capture International, Inc.**

1. Chemical Immobilization of Animals  
December 6-7, 2007  
Indianapolis, Indiana

**Hours Granted: 16**

**F. Schering-Plough Animal Health**

1. Improving Adoption and Animal Health in Shelters  
October 14, 2007  
Louisville, Kentucky

**Hours Granted: 5**

2. Reproduction Updates  
November 28, 2007  
Ft. Wayne, Indiana

**Hours Granted: 3**

**G. Veterinary Specialty Center of Indiana**

1. Cranial Cruciate Disease  
January 24, 2008  
Louisville, Kentucky

**Hours Granted: 2**

**H. Pfizer Animal Health**

1. Improving Patient Comfort: Sedation, Anesthesia, & Pain Management  
November 26, 2007

Bloomington, Indiana  
**Hours Granted: 1**

2. Improving Patient Comfort: Wet Lab  
November 27, 2007  
Bloomington, Indiana  
**Hours Granted: 3**

#### **XIV. REPORTS**

##### **A. Consumer Complaints**

There was no report concerning consumer complaints

##### **B. Controlled Substances Advisory Committee- Dr. Kovach**

Dr. Kovach reported she had attended two (2) CSAC meetings since the last veterinary board meeting. At those meetings she stated Dr. Cooney was granted his CSR and there was a discussion about pharmacies getting prescriptions for Tramadol also known as Ultram which is a pain medicine commonly used by Veterinarians. She noted there was also discussion of the *salvia divinorum* plant being abused for recreational purposes as a hallucinogen. The plant is not illegal in Indiana yet but there will be future discussions to get it classified as a Schedule I controlled substance.

##### **C. State Veterinarian's Report- Dr. Marsh**

- There have been some new veterinarians hired with the State Board of Animal Health since the state is divided into ten (10) districts so now each district has a veterinarian.
- EHD has been found in cattle and this has not happened before. Deer mortality rates have been significant.
- West Nile Virus is still around but there are good vaccines available.
- Equine encephalitis is here as well and some are contributing that to weather conditions.
- They are expecting many starvation investigations this year. It is the job of local law enforcement to handle these investigations but they often do not know what to do about it so the Department of Animal Health will send a veterinarian out.
- The premises registrations were used for the first time at the state fair and were very successful with over 30,000 sites registered. The Hoosier Beef Congress is using premises registration as well.
- The Dairy industry is undergoing big changes, there are more dairy cattle and a new NESTLE plant is being built. We are starting to get cattle from Canada again.
- Channel 13 recently did a report on the puppy trade and the Amish are involved. He made clear that those places have to be USDA licensed if they are going into the wholesale trade. If a person is selling directly to the buyer then they do not need a USDA license.

#### **XV. OLD/NEW BUSINESS**

1. Ms. Vaught asked for volunteers to form a rules committee because some rules need to be updated, particularly concerning registered veterinary technicians and mobile facilities. Dr. Headley and Dr. Frank volunteered to work on this.

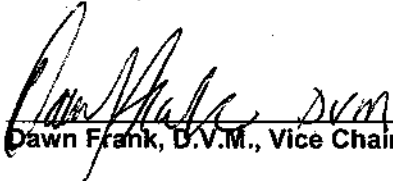
**XVI. OTHER ITEMS FOR CONSIDERATION**

**XVII. ADJOURNMENT**

There being no further business, and having completed its duties, the meeting of the Indiana Board of Veterinary Medical Examiners adjourned at 2:30 p.m.

  
Ralph Welp, D.V.M., Chairman

1-30-08  
Date

  
Dawn Frank, D.V.M., Vice Chairman

1-30-08  
Date